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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,620	04/18/2006	Heinz Zimmerman	LAGP:116US	1763
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SIMPSON & SIMPSON, PLLC				
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WILLIAMSVILLE, NY 14221-5406				
EXAMINER				
NGUYEN, THONG Q				
ART UNIT		PAPER NUMBER		
2872				
MAIL DATE		DELIVERY MODE		
10/24/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/533,620

Applicant(s)

ZIMMERMAN ET AL.

Examiner

Thong Nguyen

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2008.
2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28, 29, 32-44 and 47-59 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 28, 29, 32-37, 40, 41, 43, 47-51 and 53-59 is/are allowed.
6) ☐ Claim(s) _____ is/are rejected.
7) ☒ Claim(s) 38, 39, 42, 44 and 52 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 02 September 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-846)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/2/08
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The present Office action is made in response to the amendment filed on 9/2/2008. It is noted that in the amendment, applicant has made changes to the abstract, the specification, the drawings and the claims.
2. Regarding to the claims, applicant has amended claims 28-29, 34-35, 38, 40-41, 43, 47-48, and 53-59. There is not any claim being added or canceled from the application. Note that claims 1-27 were canceled in the amendment of 4/29/05 and claims 30-31, and 45-46 were canceled in the amendment of 1/22/08.

Drawings

3. The replacement sheets contained seven sheets of figures 1-9 were received on 9/2/2008. These drawings are approved by the examiner.

Specification

4. The substitute specification filed on 4/29/05 has not been entered because applicant has failed to provide a statement that the substitute specification does not contain any new matter as required by rule 37 CFR 1.125(b).
5. The objection to the abstract of the disclosure as set forth in the previous Office action has been overcome by the filing of a new abstract on 9/2/08.
6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d) (1) and MPEP § 608.01(o). Correction of the following is required: The specification has not positively provided an antecedent basis for each of the following claimed features.

First, the arrangement among the components into a single unit as recited in claim 38 does not have a proper antecedent basis in the specification. Applicant is respectfully invited to review the specification, in particular, paragraph [0014] which discloses that the holder (14), the gear (10), the carrier (12), the switching device (5) and the beam splitter (2a) are arranged into a single unit. The specification does not disclose that the holder (14), the gear (10), the carrier (12), the switching device (5), the beam splitter (2a) and the illumination coupling-in system are arranged into a single unit as claimed in claim 38. In other words, the specification does not teach that the illumination coupling-in system is arranged into a single unit with the holder, the gear, the carrier, the switching device, and the beam splitter.

Second, the specification does not provide a proper antecedent basis for the feature related to the compound lens structure as recited in claim 39, lines 1-4.

Third, the specification does not provide a proper antecedent basis for the feature related to stereo lens structure as recited in claim 42, lines 1-3.

Fourth, the specification does not provide a proper antecedent basis for the feature related to the connection between the short part of the "L" holder and the focus adjusting mechanism as recited in claim 44, lines 2-3.

Fifth, the specification does not provide a proper antecedent basis for the feature related to the parallel feature of the flat component and the so-called "beam splitter surface" as recited in claim 52, lines 2-3.

Claim Objections

7. Claim 39 is objected to because of the following informalities. Appropriate correction is required.

In claim 39: on line 4, the term "device" should be changed to --system--. See claim 28, on lines 15-16.

Allowable Subject Matter

8. Claims 28-29, 32-37, 40-41, 43, 47-51, and 53-59 are allowed.
9. Claims 38-39, 42, 44 and 52 would be allowable if the specification and/or the claims are rewritten or amended to overcome the objection to the claims as set forth in this Office action.
10. The following is a statement of reasons for the indication of allowable subject matter:

The stereomicroscope as recited in the independent claim 28 is patentable with respect to the prior art, in particular, the Pub. No. 2002/0034001 and the U.S. Patent Nos. 6,930,828; 4,697,893 and 5,349,468 by the limitations related to the structural relationship among the beam splitter for combination two stereoscope observation beam paths, the system for coupling an illuminating beam path, a carrier bearing the microscope body, a switching device and a gear for automatically displace the carrier to compensate a displacement between the emerging beam path of the beam splitter with respect to the symmetric axis of the two observation beam paths as recited in the claim. It is noted that the use of a beam splitter, a switching device, a carrier and a mechanism having gear for

displacement the carrier is disclosed in the mentioned Publication and the use of an illuminating system for coupling light onto an objective lens is disclosed in the Patent No. 5,349,468; however, the cited art does not suggest a combination of optical elements and their mechanical supports for meeting the device as claimed.

b) The element for a stereomicroscope as recited in the independent claim 58 is patentable with respect to the prior art, in particular, the Pub. No. 2002/0034001 and the U.S. Patent Nos. 6,930,828; 4,697,893 and 5,349,468 by the limitations related to the structural relationship among the microscope holder, a gear, a carrier for a microscope body that can be displayed relative to the holder, a switching device supported on the holder which switching device comprises a lens mounted for at least one stereo lens and at least one compound lens, and a beam splitter wherein all mentioned components form a single unit which can be selectively be connected with or detached from a focus adjusting mechanism of a stand and a microscope body as claimed. It is noted that the use of a beam splitter, a switching device, a carrier and a mechanism having gear for displacement the carrier is disclosed in the mentioned; however, the cited art does not suggest a combination of optical elements and their mechanical supports form a single unit which can be selectively be connected with or detached from a focus adjusting mechanism of a stand and a microscope body as claimed.

Response to Arguments

11. It is noted that while the amendments to the abstract, the drawings and the claims as provided in the amendment of 9/2/08 have overcome most of the objections to the application set forth in the previous Office action. However, regarding to the objections to the specification as provided in the previous Office action, applicant has not amended the specification and/or the claims or provided any arguments with response to the objections to the specification as provided in the previous Office action, element (15), items labeled as "First", "Second", "Fourth", "Fifth" and "Seventh". The mentioned objections are repeated in this Office action.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. This application is in condition for allowance except for the following formal matters:

See the objections to the specification and the claim as set forth in this Office action.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Nguyen whose telephone number is (571) 272-2316. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on (571) 272-2434. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thong Nguyen/

Primary Examiner, Art Unit 2872